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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/524,655
Filing Date: February 17, 2005
Appellant(s): HILLEBRAND, RAINER

Erik R. Swanson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/23/2008 appealing from the Office action mailed 03/31/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,073,241	Rosenberg	6-2000
6,167,441	Himmel	12-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 6,073,241 issued to Jonathan Rosenberg et al. ("Rosenberg").

As per claim 16, Rosenberg teaches "a method for testing a browser-adapting server application of a server, the method comprising the steps of":

"a first browser transmitting a first key information to a first server application of the server," (column 5 lines 1-15, column 7 lines 61-66, column 8 lines 1-5);

"the first server application storing the transmitted first key information in a storage medium," (column 7 lines 61-66, column 8 lines 1-5);

"the browser-adapting server application of the server obtaining a second key information regarding a second browser," (column 8 lines 3-10);

"the browser-adapting server application of the server comparing the second key information with the stored first key information," (column 7 lines 66, column 8 lines 1-10); and

"determining if modifications to the browser-adapting server application of the server are necessary based on the comparison result so as to ensure that the browser-adapting

server application functions properly with each of the first and second browsers," (column 8 lines 3-10).

As per claim 17, Rosenberg further shows "the step of":
"modifying the browser-adapting server application for the second browser in response to the second key information," (column 8 lines 1-10); and
"determining if the modifications to the browser-adapting server application will affect the first browser," (column 6 lines 22-50).

As per claim 18, Rosenberg further shows "the step of the browser-adapting server application obtaining a second key information regarding a second browser comprises":
a second browser transmitting the second key information to the first server application," (column 7 lines 19-40); and
"the first server application storing the transmitted second key information in the storage medium," (column 7 lines 19-40); and
"the browser-adapting server application receiving the stored second key information from the storage medium," (column 7 lines 19-40).

As per claim 19, Rosenberg further shows "the step of the browser-adapting server application obtaining a second key information regarding a second browser comprises":
"a second browser transmitting the second key information to the browser-adapting server application," (column 5 lines 39-53).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-15, 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg in view of Himmel (US 6,167,441).

As per claim 5, Rosenberg does not explicitly teach: "a method for testing a browser-adapting server application of a server," the method comprising: "collecting and recording, using another server application of the server, respective key information of a plurality of browser types and/or versions," (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38); and "testing an information adaptation method of the browser-adapting server application of the server using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers," (column 1 lines 10-25, 32-42, 55-66, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38). However, Himmel teaches a similar method for testing a browser-adapting server application of a server using the key information. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the method of Rosenberg with the teaching of Himmel by using a

browser-adapting server application of a server to make it more benefit and advantage to the users.

As per claim 6, Rosenberg does not explicitly teach: "adapting the browser-adapting server application so as to ensure that the browser, adapting server application functions properly with each of the plurality of browsers," (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38). However, Himmel teaches a similar method for testing a browser-adapting server application of a server using the key information. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the method of Rosenberg with the teaching of Himmel by using a browser-adapting server application of a server to make it more benefit and advantage to the users.

As per claim 7, Rosenberg does not explicitly teach: "evaluating first respective key information of a first information-requesting browser type so as to adapt the browser, adapting server application," (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38). However, Himmel teaches a similar method for testing a browser-adapting server application of a server using the key information. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the method of Rosenberg with the teaching of Himmel by using a browser-adapting server application of a server to make it more benefit and advantage to the users.

As per claim 8, Rosenberg explicitly teaches: "directly or indirectly obtaining the respective key information of the information-requesting browser type," (column 7 lines 19-40).

As per claim 9, Rosenberg explicitly teaches: "transmitting the key information to the browser-adapting server application," (column 7 lines 61-66, column 8 lines 1-6).

As per claim 10, Rosenberg explicitly teaches: "comparing first information returned by the another server application to second information returned by the another server application before the adapting of the browser-adapting server application," (column 6 lines 22-57).

As per claim 11, Rosenberg explicitly teaches: "comparing first information returned by the another server application to second information returned by the another server application before the adapting of the browser-adapting server application," (column 6 lines 22-57).

As per claim 12, Rosenberg explicitly teaches: "providing a database configured to provide the respective key information for the another server application," (column 5 lines 1-15, column 7 lines 61-66).

As per claim 13, Rosenberg explicitly teaches: "providing a database configured to provide the respective key information for the another server application," (column 5 lines 1-15, column 7 lines 61-66).

As per claim 14, Rosenberg explicitly teaches: "providing a database configured to provide the respective key information for the another server application," (column 5 lines 1-15, column 7 lines 61-66).

As per claim 15, Rosenberg explicitly teaches: "providing a database configured to provide the first respective key information for the another server application," (column 5 lines 1-15, column 7 lines 61-66).

As per claim 20, Rosenberg does not explicitly teach: "the key information comprises at least one of a type of the respective browser, a version of the respective browser, languages supported by the respective browser, file formats supported by the browser, and graphic formats supported by the browser," (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38). However, Himmel teaches a similar method for testing a browser-adapting server application of a server using the key information. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the method of Rosenberg with the teaching of Himmel by using a browser-adapting server application of a server to make it more benefit and advantage to the users.

As per claim 21, Rosenberg does not explicitly teach: "the key information comprises at least a type of the respective browser, a version of the respective browser, languages supported by the respective browser, file formats supported by the browser, and graphic formats supported by the browser," (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38). However, Himmel teaches a similar method for testing a browser-adapting server application of a server using the key information. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the

method of Rosenberg with the teaching of Himmel by using a browser-adapting server application of a server to make it more benefit and advantage to the users.

As per claim 22, Rosenberg does not explicitly teach: "a method for testing a browser-adapting server application, the method comprising":
"collecting and recording, using another server application, respective key information of a plurality of browser types and/or versions," (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38);
and
"testing an information adaptation method of the browser-adapting server application using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers, (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38)
wherein the key information comprises at least a type of the respective browser, a version of the respective browser, languages supported by the respective browser, file formats supported by the browser, and graphic formats supported by the browser," (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38). However, Himmel teaches a similar method for testing a browser-adapting server application of a server using the key information. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the method of Rosenberg with the teaching of

Himmel by using a browser-adapting server application of a server to make it more benefit and advantage to the users.

As per claim 23, Rosenberg does not explicitly teach: "adapting the browser-adapting server application so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers," (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38). However, Himmel teaches a similar method for testing a browser-adapting server application of a server using the key information. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the method of Rosenberg with the teaching of Himmel by using a browser-adapting server application of a server to make it more benefit and advantage to the users.

.As per claim 24, Rosenberg does not explicitly teach: "evaluating first respective key information of a first information-requesting browser type so as to adapt the browser-adapting server application," (column 1 lines 10-25, 32-42, column 5 lines 15-46, 51-61, column 6 lines 43-66, column 8 lines 51-66, column 9 lines 25-38). However, Himmel teaches a similar method for testing a browser-adapting server application of a server using the key information. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the method of Rosenberg with the teaching of Himmel by using a browser-adapting server application of a server to make it more benefit and advantage to the users.

(10) Response to Argument

Ground of Rejection No. 1: Anticipation Rejection of Claims 16-19 based on Rosenberg et al.

Regarding claim 16, appellant argued that Rosenberg does not teach "a first browser transmitting a first key information to a first server application of the server, the browser-adapting server application of the server obtaining a second key information regarding a second browser, or the browser-adapting server application of the server comparing the second key information with the stored first key information". On the contrary, Rosenberg teaches at (column 7 lines 60-66, column 8 lines 1-10) that "the browser tracking module 48A (**first browser**) of server computer 24A (**first server**) is **used to set a cookie and return a page to a client computer (based on the transmitted first key information)**. This operation may be executed with the following instructions: "Set-Cookie: **NAME=i; domain=server-- A.**" As discussed above, after sending the unique identification value to the database, the first server 24A (**first server**) conveys the cookie to a set of related servers, represented in this example as server B (**second server**). Alternate methods for transmitting this information are described below. When this information is received by **server B (second server)**, **server B (second server) uses its browser tracking module 48B (second browser) to identify the value "i" (first key information) and then to set a server B (second server) cookie to the same value** (the browser-adapting server application of the server obtaining a second key information regarding a second browser, or the browser-adapting server application of the server comparing the

second key information with the stored first key information). This may be accomplished with the following instructions: "Set-Cookie: NAME=i; domain=server.sub.-- B'. Note at this time that two cookies are set. Each cookie has the value "i". One cookie is associated with server.sub.-- A, while the other cookie is associated with server.-- B.

Ground of Rejection No. 2: Anticipation Rejection of Claims 5-15 and 20-24 based on a combination of Rosenberg and Himmel.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, regarding claim 5, appellant argued that Rosenberg and Himmel do not disclose "testing an information adaptation method of the browser-adapting server application of the server using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers". However, Himmel teaches at (column 9 lines 25-38) that "some characteristics such as monitor size result in redirection to a new URL, while other adaptations such as font size can be made on the fly. The invention can be used to **detect the language version of the browser** since this information is typically in the header information. Also, locale information is usually

present in the operating system and can be effectively snooped. Consequently, the HTTP request can be redirected to web pages written in the appropriate language.

The version level of the browser can be compared to a table of information on which Internet language and protocols are supported by the browser. Thus, **pages which include Internet languages not supported by a given browser can be avoided** (testing an information adaptation method of the browser-adapting server application of the server using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers)". Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the method of Rosenberg with the teaching of Himmel by using a browser-adapting server application of a server to make it more benefit and advantage to the users.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, appellant argued that Rosenberg and Himmel do not disclose "a first browser transmitting a first key information to a first server application of the server, the browser-adapting server application of the server obtaining a second key information regarding a second

browser, or the browser-adapting server application of the server comparing the second key information with the stored first key information". However, Rosenberg teaches at (column 7 lines 60-66, column 8 lines 1-10) **as discuss aboved**. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the method of Rosenberg with the teaching of Himmel by using a browser-adapting server application of a server to make it more benefit and advantage to the users.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/K. T. N./

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